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FIRST COMMITTEE

Belgium, Denmark, France, Germany, Federal Republic of, Italy,
Luxembourg, Netherlands, United Kingdom of Great Britain and
Northern Ireland: working document. Annex to the Law of the
Sea Convention: conditions of exploration and exploitation

(Circulated in accordance with the decision taken by the Committee
at its informal meeting on 16 August 1974)

In the view of the delegations co-sponsoring this working paper it is essential for conditions of exploration and exploitation to be included in any Law of the Sea Convention.

While this paper does not necessarily represent the final views of its co-sponsors, either as to substance or as to placement of the conditions, it is an illustration of the kind of conditions that would need to be included in the Convention. It is not a comprehensive and detailed set of conditions and is merely intended as an aid to the Committee's work on this subject.

I. Definition of activities

- (i) Prospecting, evaluation and exploitation in the International Sea-bed Area of the resources referred to in article VI shall be subject to the conditions set out in this annex.
- (ii) Prospecting means a general survey of a large area with a view to collecting data on the basis of which a determination can be made as to specific areas meriting evaluation. Prospecting may include all work involving geophysical and geochemical surveys and sea-bed sampling, excluding drilling deeper than 50 metres.
- (iii) Evaluation means work, following prospecting, involving the use of considerable technical and financial means in order to confirm the existence, to evaluate the consistency and to demonstrate the exploitability of the resources of a specific area.
- (iv) Exploitation means the extraction of resources for commercial and industrial purposes from a specific area.

II. Prospecting

- (i) Prospecting shall be open in the international Sea-bed Area, other than in areas in respect of which contracts have been awarded in accordance with article III, subject to a detailed declaration being made to the Authority by the entity wishing to carry out prospecting.
- (ii) The declaration shall indicate the area in which it is planned to carry out prospecting. The declaration shall be effective for two years and may be renewed. It shall not give any exclusive right in respect of the area.
- (iii) The declaration shall cease to be effective as regards any part of the prospecting area concerned which becomes an area in respect of which a contract has been awarded.
- (iv) The entity shall inform the Authority of the results of the prospecting undertaken. The results shall be held confidential by the Authority.

III. Award of contracts

- (i) The Authority shall award contracts, in accordance with the procedure set out in paragraph (iii) below, giving an entity or group of entities the exclusive right to undertake the evaluation and exploitation (as defined in article I) of resources in a specific area.
- (ii) In the case of a group of entities, they shall designate one of them who will represent them with respect to the Authority and who will exercise powers and accept responsibility on behalf of the group.
- (iii) The Authority 1/ shall award contracts pursuant to the procedure set out below.

An application for a contract in respect of the evaluation and exploitation of a category, or categories, of resources in a specific area may be submitted to the Authority, except as regards an area in respect of which a contract has already been awarded with respect to the category, or categories, of resources referred to in the application.

The application shall include all relevant data, including results of prospecting for the resources in question in the particular area carried out by or on behalf of the applicant.

Such data contained in the application received by the Authority shall be held confidential. On receipt of the application the Authority shall award a contract provisionally to the applicant, provided the limitation specified in article IV is not exceeded. The award of such a contract shall be publicized immediately after it has been made. Provided that no competing application is received within one month after such publication the award of the contract shall become definitive.

1/ An organ of the Authority to be agreed upon.

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In the event that competing applications are received, the Authority shall reconcile such applications on the basis of the following objective criteria (to be determined). 1/

IV. Maximum number of contracts

An applicant may not hold more than six contracts at any one time in respect of each category of resources.

V. Assignment of contracts

In the case of an assignment the terms and conditions of the contract of the assignor shall continue to apply to the assignee.

VI. Categories of resources

Contracts shall be awarded for one or both of the two following categories of resources:

- (i) liquid and gaseous hydrocarbons, helium, carbon dioxide and geothermal energy.
- (ii) any mineral substance, in particular polymetallic and phosphate nodules.

VII. Size of areas

Areas, delimited by meridians and parallels according to a grid system drawn up by the Authority, shall, before the relinquishment referred to in article IX, have a maximum surface of:

- (i) 9,000 sq. kms. in the case of the resources referred to in article VI (i) and,
- (ii) 60,000 sq. kms. in the case of the resources referred to in article VI (ii) above.

VIII. Duration

- (i) Contracts shall have a duration of 30 years. They shall thereafter be renewed every 10 years if the contractor so requests, for a maximum period of 50 years.
- (ii) An area in respect of which a contract has been awarded shall be freed of any exclusive right:

1/ Proposals on this subject will be submitted by the co-sponsors in due course.
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A/CONF.62/C.1/L.8

Page 4

1. at the end of the contract period or of a renewal period, if no further renewal period is requested in accordance with paragraph (i)
 2. in the event of renouncement of the whole of the area.
- (iii) Parts of an area relinquished or renounced shall likewise be freed of any exclusive right.

IX. Relinquishment and renunciation

- (i) The contractor shall relinquish one third of the area in respect of which it has been awarded a contract before beginning any exploitation.
- (ii) The contractor may at any time renounce the whole or part of the area in respect of which it has been awarded a contract.
- (iii) Relinquishment or renunciation shall be carried out on the basis of the grid system referred to in article VII.
- (iv) The Authority, within a period of three months after relinquishment or renunciation, shall publicize the areas, or parts of areas, which have been relinquished or renounced.

X. Work requirement

- (i) The applicant shall undertake:
 - to spend ... each year prior to exploitation (levels of expenditure, on a graduated scale, to be worked out)
 - to begin exploitation within a period not longer than 10 years after the award of the contract and
 - not to interrupt exploitation for more than 3 years, except in the case of force majeure, proof of which shall be submitted to the Authority.
- (ii) In the event of an infringement of the obligations provided for in paragraph (i) the Authority shall give written notice to the contractor specifying the infringement and giving the contractor a reasonable period, in any case not less than six months, to remedy the infringement. If the infringement is not remedied within the period specified then the Authority shall terminate the contract on giving six months written notice to the contractor. If the contractor challenges the ground of termination, termination shall only take place in accordance with a decision given by the tribunal established under article ... of the Convention.

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XI. Participation of nationals of countries without sea-bed exploration and exploitation capability

The applicant shall indicate in his application the steps to be taken in order to ensure the participation in the activities envisaged of nationals of countries without sea-bed exploration and exploitation capability, with a view to ensuring the training of such nationals.

XII. Non-interference with other activities

- (i) The work undertaken and safety zones established round installations and devices pursuant to article XV (ii), and in general activities exercised within the framework of this annex, shall not impede in an unjustifiable way the exercise of other lawful activities.
- (ii) If areas relating to different categories of resources totally or partially overlap, each contractor shall exercise its respective activity in such way as not to impede in an unjustifiable way the activity of any other contractor.

XIII. Regulatory arrangements

- (i) The necessary measures shall be taken to:
 - (a) protect the installations and devices referred to in article XV (i)
 - (b) enforce technical rules, particularly with a view to the maximum exploitation of resources, compliance with security measures, and protection of the environment.
- (ii) The Authority shall be notified of the measures taken in implementation of paragraph (i).
- (iii) (Questions of private law).
- (iv) The contracts awarded by the Authority shall contain provisions relating to the safety of human life, the protection of the environment and non-interference with legitimate uses of the sea.

XIV. Inspection and supervision information to be supplied to the Authority

- (i) The Authority shall be entitled to carry out inspection and supervisory measures, in accordance with the terms of the contract, in order to ensure that work is undertaken in conformity with this Convention and its annexes.
- (ii) The contractor shall place at the disposal of the Authority any information concerning resources it has collected during work carried out in an area.

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1/20/77 (6/1/77) 9

English

Page 6

XV. Installations and devices and safety zones

(i) For the purpose of this annex "installations and devices" means:

- (a) platforms and other fixed devices, as well as their attachments
- (b) ships, marine installations and floating devices and
- (c) underwater habitats and vehicles, either floating, standing on, or moving over, the sea-bed

which are used for the purposes of evaluation or exploitation.

(ii) A "safety zone" shall be established around the installations and devices referred to in paragraph (i) (a), up to a distance of 1,000 metres measured horizontally from each point of the external limit of such installations and devices.

XVI. Marking of installations and devices and publicity to be given to nautical information

- (i) Marine marking of installations and devices and safety zones shall be established and maintained, in conformity with international rules.
- (ii) Appropriate publicity shall be given to nautical information relating to evaluation and exploitation.

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Financial arrangements

To be determined.

Settlement of disputes

To be determined.

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